

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

FEDERAL TRADE COMMISSION and
THE PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES, Attorney
General of the State of New York,

Plaintiffs,

v.

QUINCY BIOSCIENCE HOLDING
COMPANY, INC., a corporation;

QUINCY BIOSCIENCE, LLC, a limited
liability company;

PREVAGEN, INC., a corporation
d/b/a/ SUGAR RIVER SUPPLEMENTS;

QUINCY BIOSCIENCE
MANUFACTURING, LLC, a limited
liability company; and

MARK UNDERWOOD, individually and as
an officer of QUINCY BIOSCIENCE
HOLDING COMPANY, INC., QUINCY
BIOSCIENCE, LLC, and PREVAGEN,
INC.,

Defendants.

Case No. 1:17-cv-00124-LLS

**DECLARATION OF ANNETTE
SOBERATS IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

DECLARATION OF ANNETTE SOBERATS

I, Annette Soberats, declare as follows:

1. I am an attorney for the Federal Trade Commission in the above-captioned litigation against Corporate Defendants Quincy Bioscience Holding Company, Inc., Quincy Bioscience, LLC, Prevagen, Inc., and Quincy Bioscience Manufacturing, LLC, and Individual Defendant Mark Underwood (collectively, "Defendants"). I submit this declaration in support of Plaintiffs' Opposition to Defendants' Motion for Summary Judgment [Dkt. No. 227].

2. Attached as **Exhibit A** is a true and correct copy of the affirmative expert report of Mary Sano, Ph.D. dated April 21, 2021 and served April 22, 2021.

3. Attached as **Exhibit B** is a true and correct copy of the rebuttal expert report of Mary Sano, Ph.D. dated July 16, 2021 and served July 16, 2021.

4. Attached as **Exhibit C** is a true and correct copy of the affirmative expert report of Janet Wittes, Ph.D. dated April 21, 2021 and served on April 22, 2021.

5. Attached as **Exhibit D** is a true and correct copy of the rebuttal expert report of Janet Wittes, Ph.D. dated July 15, 2021 and served on July 16, 2021.

6. Attached as **Exhibit E** is a true and correct copy of Defendants' Responses and Proposed Counter-Findings to Plaintiffs' Proposed Findings of Fact dated March 3, 2022 and served on March 3, 2022.

7. Attached as **Exhibit F** is a true and correct copy of the transcript of the deposition of Kenneth Lerner dated August 6, 2020.

8. Attached as **Exhibit G** is a true and correct copy of the transcript of the deposition of Kenneth Lerner dated August 7, 2020.

9. Attached as **Exhibit H** is a true and correct copy of the warning letter issued by the Food and Drug Administration to Mark Underwood, President of Quincy Bioscience Manufacturing, Inc., on October 16, 2012 and bates labeled QUINCYFTC-547265—QUINCYFTC-547272.

10. Attached as **Exhibit I** is a true and correct copy of the transcript of the deposition of Mindy Kurzer, Ph.D. dated September 29, 2021.

11. Attached as **Exhibit J** is a true and correct copy of the transcript of the deposition of Mary Sano, Ph.D. dated October 22, 2021.

12. Attached as **Exhibit K** is a true and correct copy of the transcript of the deposition of Janet Wittes, Ph.D. dated October 7, 2021.

13. Attached as **Exhibit L** is a true and correct copy of the affirmative expert report of Jeremy Mark Berg, Ph.D. dated April 22, 2021 and served on April 22, 2021.

14. Attached as **Exhibit M** is a true and correct copy of the rebuttal expert report of Jeremy Mark Berg, Ph.D. dated July 15, 2021 and served on July 16, 2021.

15. Attached as **Exhibit N** is a true and correct copy of Defendants' Objections and Responses to Plaintiffs' First Requests for Admission.

16. Attached as **Exhibit O** is a true and correct copy of a press release from the United States Food & Drug Administration titled, *FDA Grants Accelerated Approval for Alzheimer's Drug*, available at <https://www.fda.gov/news-events/press-announcements/fda-grants-accelerated-approval-alzheimers-drug>, last visited August 26, 2021.

17. Plaintiffs, beginning in February 2022, asked Defendants on multiple occasions to supplement their discovery responses by producing recently disseminated advertising and related information. On April 7, Defendants produced a single, 45-page pdf document that appeared to comprise labeling, packaging, printed materials, two radio ad transcripts, and two possible screenshots. After additional correspondence, in which Defendants initially denied having an obligation to update their discovery responses, Defendants informed Plaintiffs on June 13 that they would produce additional videos and materials that aired after the settlement in the matter of *Collins v. Quincy Bioscience, LLC*. Defendants produced 36 video and radio ads on the evening of June 14, two nights before Plaintiffs' deadline to oppose Defendants' motion for summary judgment.

I declare under penalty of perjury that the foregoing is true and correct.

Date: June 16, 2022

/s/ Annette Soberats
Annette Soberats